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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/074,819

02/13/2002

James Van Horn

VHCI-0007

7087

7590

05/20/2005

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EXAMINER

NGUYEN, TAN D

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/074,819

Applicant(s)

HORN, JAMES VAN

Examiner

Tan Dean D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-17,19-21,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-17,19-21,23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

The amendment filed 1/18/2005 has been entered.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 1-15, 16-20 (method) are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

In order for the claimed invention to be statutory subject matter, the claimed invention must fall within one of the statutory classes of invention as set forth in § 101 (i.e. a process, machine, manufacture, or composition of matter).

In the present case, **claims 1-15**, are directed to "A method for fundraising", which is not within one of the classes of invention set forth in § 101.

The "A computerized method for fundraising" comprising the steps of:

- (a) receiving a transaction purchase amount from a merchant;
  - (b) receiving a purchaser identification, ...
  - (c ) determining a donation amount ...; and
  - (d) crediting the determined donation amount to an account of a beneficiary",
- are merely an abstract idea and do not produce a useful, tangible, concrete results.

The "computerized method for fundraising" comprising the steps of (a)-(d) as shown are merely an abstract idea and does not reduce to a practical application in the

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technological arts (involving computer/computing means or equivalent for determination/calculation) and are therefore are found to be non-statutory.

See (1) *In re Schrader*, 22 F.3d 290, 30 USPQ2d 1455 (CCPA 1994), (2) *In re Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557, (3) *In re Waldbaum*, 173 USPQ 430 (CCPA 1972), (4) *In re Musgrave*, 167 USPQ 280 (CCPA 1970), and (5) *In re Johnston*, 183 USPQ 172.

In the present case, **claims 16-17, 19-20**, are directed to “A method for fundraising”, which is not within one of the classes of invention set forth in § 101.

The “method for fundraising” comprising the steps of

(a) contracting .....

and (e) storing ...on a card”, are merely an abstract idea and do not produce a useful, tangible, concrete results.

The “method for fundraising” comprising the steps of (a)-(e) as shown are merely an abstract idea and does not reduce to a practical application in the technological arts (involving computer/computing means or equivalent for determination/calculation) and are therefore are found to be non-statutory.

### ***Response to Arguments***

3. Applicant's arguments with respect to the 35 U.S.C. rejections of claims 1-15, 16-20 have been considered in view of the amendment, but arguments are not persuasive because merely inserting “computerized method” in the preamble alone and no detailed computerizing elements in the body of the claim is insufficient to overcome the rejection.

***Claim Rejections - 35 USC § 112***

4. **Claims 1, 3-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

In claim 1, the preamble calls for "a computerized method" but the body of the claim fails to include any element/step dealt with computer or computerization. Also, it's not clear the relationship of (a) and (b) and whether the point of sale location in (b) is related to the merchant of (a) or not.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1, 3-15 (method<sup>1</sup>), 16-17, 19-20 (method<sup>2</sup>), 21, 23-24 (apparatus<sup>1</sup>) are rejected under 35 U.S.C. 103(a) as obvious over NAIR (US 2002/0099654) in view of WO 93/14476.**

**As for independent method claim 1**, NAIR discloses a computerized method for fundraising, comprising:

- (a) receiving a transaction purchase amount from a merchant {Fig. 13a, 1202a, par [0003]}
- (b) receiving a purchaser identification, from a point of sale location, via a card {para. [0003], [0038], [0039], Figs. 6};

(c ) determining a donation amount based on the received transaction purchase amount and a predefined donation percentage from the merchant {see [0003, 0004, 0054, 0073, 0074], Fig. 10, (901)} and

(d) crediting the determined amount to an account of a beneficiary. (see Figs. 14a, [0066, 0067]). NAIR fairly teaches the invention except for using a donation program card and not a credit card in step (b). Note that this statement is agreed upon by the applicant on the last response of 1/18/2005.

In another computerized method for fundraising connected to a business purchase transaction, WO 93/14476 fairly discloses the carrying out of step (b) using a donation identification card embodying the purchaser identification wherein the card can be credit card, customer card or donation card {see abstract, page 7, para. (2, 3, 4), page 13, 1<sup>st</sup> paragraph ("*purchasing ... retail businesses ... POS terminals*") , Fig. 3a, 12a}. Note that WO 93/14476 discloses the various types of identification means, donation cards (plastic, paper, cardboard, or other material), and types of plastic cards (disposable or reusable such as credit card, customer card, or the like) on page 7, 4<sup>th</sup> para.

It would have been obvious to modify the identification element of step (b) of NAIR by using donation card that is not credit card as taught by WO 93/14476 such as donation card, or customer card or the like as mere using other equivalent identification card if desired as taught by WO 93/14476 above {see page 7, para. (2-4)}.

**As for dep. claim 2 (part of 1),** this is taught in NAIR / WO 93/14476 as shown in Fig. 6 of NAIR.

**As for dep. claim 3** (part of 1), this is shown in NAIR / WO 93/14476 as shown in Fig. 8 of NAIR.

**As for dep. claims 4-6** (part of 1), these are taught in NAIR / WO 93/14476 as shown in Fig. 14A-14B of WO 93/14476.

**As for dep. claims 7-11** (part of 1), these are taught in NAIR / WO 93/14476 as shown in NAIR Figs. 10, 13A-C.

**As for dep. claim 12** (part of 1), this is taught in NAIR / WO 93/14476 as shown in NAIR Fig. 6.

**As for dep. claim 13** (part of 1), this is taught in NAIR / WO 93/14476 as shown in NAIR Fig. 5, "account information".

**As for dep. claim 14** (part of 1), this is taught in NAIR / WO 93/14476 as shown in Fig. 6, 519, 515-516.

**As for dep. claim 15** (part of 1), this is taught in NAIR / WO 93/14476 as shown in NAIR Fig. 14A-14C.

Alternatively, as taught in NAIR [0078 "*many changes and modifications are reasonably and properly be included within the scope*"], the various modification as shown in the dependent claims above are considered as routine experimentation of adjusting donation parameters or optimizing operating conditions or result effective variables/parameters and the optimizing of result effective variables is considered as routine experimentation to determine optimum or economically feasible reaction conditions and would have been obvious to the skilled artisan, absent evidence of unexpected results. In re Aller, 105 USPQ 233.

**As for independent apparatus claim 21**, which deals with the system for carrying the method of claim 1, it's rejected over the system to carry out the rejection of claim 1 above.

**As for dep. claim 23** (part of 21), this is taught in NAIR / WO 93/14476 as shown in WO 93/14476 page 8, 2<sup>nd</sup> full paragraph ("*magnetically encoded (e.g. magnetic strip)*"))".

**As for dep. claim 24** (part of 21), this is taught in NAIR / WO 93/14476 as shown in WO 93/14476, Fig. 3a (48), page 9, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs.

**As for independent method<sup>2</sup> claims 16**, which is similar to independent method claim 1 above, with the additional limitations of storing of the identification of the merchant, or purchaser and wherein the identification of the purchaser on a donation program card and not a credit card, are fairly taught in WO 93/14476 Figs. 3a, 2, page 7, para. 2, 3, 4 and 5.

**As for dep. claims 17, 19, 20** (part of 16), these are taught in NAIR / WO 93/14476 as shown in NAIR Figs. 6, 14a, and WO 93/14476, Fig. 3a (48), pages 6-7.

### ***Response to Arguments***

7. Applicant's arguments with respect to the 35 USC 102(e) and 103 (a) of claims 1-24 have been considered but are moot in view of the new ground(s) of rejection which is caused by applicant's amendment.



***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

No claims are allowed.

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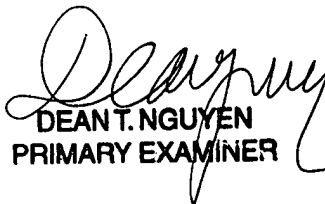
9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail [CustomerService3600@uspto.gov](mailto:CustomerService3600@uspto.gov).

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (571) 272-6812. The FAX phone numbers for formal communications concerning this application are (703) 872-9306. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtm  
May 16, 2005

  
DEAN T. NGUYEN  
PRIMARY EXAMINER